

**ANDOVER BOARD OF HEALTH**

**Minutes**  
**May 11, 2009, 6 P.M.**  
**1<sup>st</sup> Floor Conference Room**  
**36 Bartlet Street**

The Board of Health meeting was called to order at 6:05 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Margaret N. Kruse, Clerk, Dr. Donald H. Miller, Vice-Chairman, and Mr. Thomas G. Carbone, Director of Public Health.

**I. Approval of Minutes**

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| • <b>Regular Meeting of March 9, 2009</b>   | <b>TABLE</b> |
| • <b>Executive Session of March 9, 2009</b> | <b>TABLE</b> |
| • <b>Regular Meeting of April 13, 2009</b>  | <b>TABLE</b> |

*The Board tabled the Regular Meeting of March 9, 2009, Executive Session of March 9, 2009, and the Regular Meeting of April 13, 2009.*

**II. Appointments & Hearings**

- **6 p.m. Leyla Schimmel, 29 Candlewood Drive – Appeal of Orders to remove Donkey from Property** - Leyla Schimmel, owner, was present to request a variance from the BOH regulations regarding keeping horses, in order to keep a miniature donkey as a 4-H project for her children. Also present were Lynn Oberhal, 2 Exeter Way, abutter to the rear, and Alan & Sandra Ober, abutters. Mr. Carbone gave an overview of the complaint received regarding Ms. Schimmel keeping the donkey without a permit. Because it is part of the horse family, BOH regulations and the Zoning By Law require a 2-acre minimum. Schimmel has one-acre +/- . Thus, two variances are necessary; one from BOH and one from ZBA for the size of the lot and the size of the shed. Mr. Carbone ordered the animal be removed, but Schimmel's appeal stays his action. Other farm animals such as pigs, goats and sheep require licenses. Ms. Schimmel also has chickens, had inquired about goats, but decided on a mini-donkey, which is the same size as a goat, yet, less maintenance with a nicer disposition. The donkey eats less than one bail of hay per week and its manure is composted for use on their garden. It is not a herd animal like goats. No prior variance on acreage has been sought or approved by the BOH, the applicant does not have a certified plot plan and they may need a variance for the setback of the shed under the Zoning By Law. Schimmel stated that the shed is at least 100' from any house. The abutters present voiced their support. Ms. Kruse asked about fencing and the paddock. There is a post and rail fence to keep the donkey confined. Ms. Ober explained that the topography of the lot is hilly; therefore no noise travels onto abutting properties. The Schimmel lot is wooded and secluded. Dr. Miller

motioned to approve the variance with the condition that Schimmel file with the ZBA by 6/1/09, the ZBA must approve it, and no BOH permit will be issued without by the Animal Inspector. Ms. Martin seconded the motion. Ms. Kruse asked if they needed to approve the manure pit, Mr. Carbone replied no. The reasoning for a 2-acre minimum is to ensure that larger animals have sufficient room to exercise and minimize the effect of a larger animal on neighbors. Ms. Martin asked if they wanted to grant a variance for this specific animal or for the property, for the donkey & foal. Schimmel stated that she is requesting the variance for this project, which would last 1-2 years. Ms. Martin suggested limiting it to this animal. Dr. Miller clarified that his motion is for this animal and its foal. The Board voted 3-0 to grant to variance with the aforementioned conditions.

- **6:30 p.m. - Charlie Eliopoulos for My Brother's Place – Show Cause Hearing to Revoke or Suspend Food Permit** -Charlie Eliopoulos, business owner, and his son, Peter Eliopoulos, were present. Mr. Carbone explained that this hearing is to determine whether or not the Board will revoke or suspend the food permit for My Brother's Place. Over the past year there have been repeated violations at which point an Administrative Hearing was held to create a resolution plan. Most of this plan has been implemented. The outstanding issues are cleanliness and upkeep of the facility. In June and July 2008 inspections were conducted. Some of the issues have been resolved. Ms. Martin asked for the number of employees. There are two. Peter Eliopoulos commented that they have completed more upkeep of the facility. Ms. Martin emphasized that the suggestions for upkeep is to make cleaning easy. Mr. Carbone informed the Board that they complied with the re-inspection of April 15, 2009. Mr. Carbone issued a letter dated April 24, 2009 raising several points based on the April 15, 2009 re-inspection and the actions taken. Ms. Martin stressed the necessity of fixing, cleaning and repairing things regularly before the inspector visits. She suggested a formalized monthly routine is needed to address any issues. They perform cleaning and maintenance on Sundays. Ms. Kruse suggested a refresher course in Serve Safe. Ms. Martin asked if having someone other than an inspector go into the restaurant to refresh Mr. Eliopoulos and point out issues along with Serve Safe recertification is possible. Mr. Carbone will give Mr. Eliopoulos the information to arrange this. If these measures fail, then Eliopoulos will have to appear before the BOH again. Ms. Martin moved to require a recertification program and to conduct an inspection in six months, if there is no significant improvement, then they will have to re-appear before the BOH. Ms. Kruse seconded the motion. The Board voted unanimously to require recertification & to conduct an inspection in six months.

### **III. Discussion**

- **H1N1 Flu Update** – No more local situation reports are being issued. The State & CDC websites have excellent information. Mr. Carbone met with Rita Casper, School Department, to devise an action plan (schools will not be closed & a letter

will be sent to parents with recommendations to prevent its spread). At this point, neither Merrimack College nor Phillips Academy is involved, although they have been contacted.

- **Private Warrant Article for Sewer Extension (Chester St., Mitton Ci., Oak St., and parts of Tewksbury St.)** – Mr. Carbone spoke with DPW Director Jack Petkus who states there is no list of projects on the master sewer plan, which calls for gravity sewer and no more pump/lift stations. Town financing is required before getting a betterment. The Board of Selectmen's stance is unknown. Ms. Martin expressed the need for a master plan to work to for sewer extension. She suggested sending a letter to Petkus & the Town Manager. The impact on the watershed, wetlands, etc. should be considered. Ms. Kruse moved that Ms. Martin write a letter to Petkus, the Town Manager and Board of Selectmen. Dr. Miller seconded the motion. The Board voted unanimously for Ms. Martin to write the letter. Ms. Kruse moved that the BOH not take a position on the private warrant article, but that the BOH supports sewer extensions and wants the Town to have a master plan driven by public health priorities. Dr. Miller seconded the motion. The Board voted unanimously to take no position on the article.
- **Set Summer Schedule** - The Board set its Summer Meeting Schedule: June 8<sup>th</sup>, July 13<sup>th</sup>, August 10<sup>th</sup>, and September 14<sup>th</sup>.

*At 7:19 Dr. Miller left the meeting.*

#### IV. Plan Review

##### A. D.W.R.P. Variances/Local Upgrade Approval

- **28 Prospect Street –Allow SAS to be 3' above SHWT where 4' is required** - Request for L.U.A. for a leach field at 3' above the water table instead of 4' prompted by replacement of the septic system. A lot of grading will be needed if the variance is not granted. Other options would be to move it further, but 1' of fill would still be needed. This is a reasonable request. Ms. Kruse moved to approve. Ms. Martin seconded the motion. The Board voted unanimously (2-0) to approve the L.U.A.
- **71 Bellevue Road – L.U.A. to allow the leach field to be 4 ½' instead of 5' off the seasonal high water table.** Ms. Martin moved to approve the variance. Ms. Kruse seconded the motion. The Board voted unanimously (2-0) to approve the variance.

**V.        Staff Reports**

**A. Director's Report –**

- Received letters from the Andover High School biology class
- Drafting proposals for projects with the students
- Summer Camps are being reviewed now

**VI.       Board Member Reports**

- A. Recycling at Apartments / Condominiums–** Ms. Kruse was contacted by a member of the Recycling Committee, asking that the BOH consider requiring condominiums and apartments be required to recycle. The Board will review.

**VII.      Adjournment**

*Ms. Kruse moved to adjourn the meeting. Ms. Martin seconded the motion. The Board voted unanimously (2-0) to adjourn the meeting at 7:40 p.m.*